

2255 petition is pending; thus, there is no discovery with which defendant requires assistance and no possibility of an evidentiary hearing. Indeed, the request for appointment of counsel appears to be on a form that is apparently circulating within the prison community and does not indicate how defendant believes Dimaya could be applied in his case.


Finally, review of the PSR in this case reveals no sentencing enhancements for a crime of violence. Not only did defendant not receive any enhancement based on a crime of violence, the Court varied downward substantially. Finally, the Court has reviewed the *pro se* filings in this matter and determined that defendant is very capable of expressing his legal concerns. Accordingly, the defendant's motion for appointment of counsel is denied.

ORDER

IT IS, THEREFORE, ORDERED that the Motion to Reconsider (#481) is **ALLOWED** and upon reconsideration defendant's Motion for Appointment of Counsel (#478) is again **DENIED** without prejudice.

The Clerk of Court is instructed to terminate Richard A. Culler as counsel of record in this matter for Mr. Foster.

Signed: May 4, 2018


Max O. Cogburn Jr.
United States District Judge